

the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 15 handlers of oranges and grapefruit regulated under the marketing order each season and approximately 750 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of these handlers and producers may be classified as small entities.

The Texas orange and grapefruit marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable oranges and grapefruit handled from the beginning of such year. Annual budgets of expenses are prepared by the TVCC, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the TVCC are handlers and producers of Texas oranges and grapefruit. They are familiar with the TVCC's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The TVCC's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the TVCC is derived by dividing the anticipated expenses by expected shipments of oranges and grapefruit. Because that rate is applied to actual shipments, it must be established at a rate which will provide sufficient income to pay the TVCC's expected expenses.

The TVCC met on May 16, 1995, and unanimously recommended expenses of \$1,035,000 and an assessment rate of \$0.10 per  $\frac{7}{10}$  bushel carton. In comparison, budgeted expenses for the 1994-95 fiscal year were \$1,161,244,

which is \$126,244 more than the \$1,035,000 recommended for the 1995-96 fiscal year. The assessment rate of \$0.10 is \$0.06 less than last season's assessment rate of \$0.16.

The TVCC met again on August 15, 1995, and unanimously recommended revised expenses of \$1,008,643. The recommended assessment rate remains at \$0.10 per  $\frac{7}{10}$  bushel carton.

The TVCC's reduced expenses are a result of the signing of a joint management agreement with the Texas Citrus and Vegetable Association.

Major expense categories for the 1995-96 fiscal year include \$500,000 for advertising, \$180,000 for compliance operations, and \$174,000 for the Mexican Fruit Fly support program.

Assessment income for the 1995-96 fiscal year is estimated at \$832,500 based upon anticipated fresh domestic shipments of 8,325,000 cartons of oranges and grapefruit. This, in addition to a withdrawal of \$167,143 from the TVCC's reserve fund, and \$9,000 estimated interest income should be adequate to cover budgeted expenses. In comparison, the assessment income for the 1994-95 fiscal year was estimated at \$960,000 based upon anticipated fresh domestic shipments of 6 million cartons of oranges and grapefruit.

Funds in the reserve at the end of the 1995-96 fiscal year are estimated at \$315,433. These reserve funds will be within the maximum permitted by the order of one fiscal year's expenses.

The TVCC budget was authorized by an interim final rule issued on June 15, 1995, and published in the Federal Register [60 FR 32257, June 21, 1995]. A 30-day comment period was provided for interested persons. No comments were received. Although no comments were received, the TVCC met subsequent to the issuance of the interim final rule and recommended a reduction in budgeted expenses for the 1995-96 fiscal year. The recommended reduction from \$1,035,000 to \$1,008,643 is incorporated in this final rule.

While this action will impose additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is found that the specified expenses for the marketing order covered in this rule are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such

expenses will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) The TVCC needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1995-96 fiscal year for the TVCC began August 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable oranges and grapefruit handled during the fiscal year; and (3) handlers are aware of this action which was recommended by the TVCC at a public meeting and published in the Federal Register as an interim final rule that is adopted in this action as a final rule with a minor modification.

#### List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements and orders, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

#### **PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS**

1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Note: This action will not appear in the annual Code of Federal Regulations.

2. The interim amendment to 7 CFR part 906 which was published at 60 FR 32257 on June 21, 1995, is adopted as a final rule with the following change:

##### **§ 906.235 [Corrected]**

On page 32258, second column, in the regulatory text, the reference to "\$1,035,000" is corrected to read "\$1,008,643."

Dated: September 20, 1995.

Sharon Bomer Lauritsen,  
Deputy Director, Fruit and Vegetable Division.  
[FR Doc. 95-23895 Filed 9-26-95; 8:45 am]

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#### **7 CFR Part 993**

[Docket No. FV95-993-1FIR]

#### **Dried Prunes Produced in California; Expenses and Assessment Rate**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as

a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate that generated funds to pay those expenses under Marketing Order No. 993 for the 1995–96 crop year. Authorization of this budget enables the Prune Marketing Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

**EFFECTIVE DATE:** August 1, 1995, through July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918; or Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, California 93721, telephone 209–487–5901.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California prunes are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable prunes handled during the 1995–96 crop year, which began August 1, 1995, and ends July 31, 1996. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the

hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,360 producers of California dried prunes under this marketing order, and approximately 20 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of California dried prune producers and handlers may be classified as small entities.

The budget of expenses for the 1995–96 crop year was prepared by the Prune Marketing Committee, the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the Committee are producers and handlers of California dried prunes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of dried California prunes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met June 22, 1995, and unanimously recommended a 1995–96 budget of \$275,280, \$5,080 more than the previous year. Budget items for 1995–96 which have increased compared to those budgeted for 1994–95 (in parentheses) are: Executive salaries, \$87,980 (\$83,850), clerical salaries, \$19,440 (\$18,650), office rent, \$22,000 (\$21,500), postage and messenger, \$5,500 (\$5,000), rental of equipment, \$3,000 (\$500), purchase of equipment, \$5,000 (\$4,500), acreage survey, \$10,500 (\$10,000), and reserve for contingencies, \$19,310 (\$19,250). Items which have decreased compared to the amount budgeted for 1994–95 (in parentheses) are: Employee benefits, \$15,400 (\$15,800), repairs and maintenance, \$3,000 (\$4,000), stationery and printing, \$4,000 (\$6,500), and Committee travel, \$9,000 (\$9,500). All other items are budgeted at last year's amounts.

The Committee also unanimously recommended an assessment rate of \$1.55 per salable ton, \$0.05 less than the previous year. This rate, when applied to anticipated shipments of 177,600 salable tons, will yield \$275,280 in assessment income, which will be adequate to cover budgeted expenses. Any funds not expended by the Committee during a crop year may be used, pursuant to § 993.81(c), for a period of five months subsequent to that crop year. At the end of such period, the excess funds are returned or credited to handlers.

An interim final rule was published in the Federal Register on August 1, 1995 (60 FR 19107). That interim final rule added § 993.346 to authorize expenses and establish an assessment rate for the Committee. That rule provided that interested persons could file comments through August 31, 1995. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective

date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 crop year began on August 1, 1995. The marketing order requires that the rate of assessment for the crop year apply to all assessable California prunes handled during the crop year. In addition, handlers are aware of this rule which was recommended by the Committee at a public meeting and published in the Federal Register as an interim final rule.

#### List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

### **PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA**

Accordingly, the interim final rule adding § 993.346 which was published at 60 FR 39107 on August 1, 1995, is adopted as a final rule without change.

Dated: September 20, 1995.

Sharon Bomer Lauritsen,  
*Deputy Director, Fruit and Vegetable Division.*  
[FR Doc. 95-23898 Filed 9-26-95; 8:45 am]

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### **Animal and Plant Health Inspection Service**

#### **9 CFR Part 92**

[Docket No. 95-064-1]

### **Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** We are amending the animal importation regulations by adding Texas to the list of States approved to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). We are taking this action because Texas has entered into an agreement with the Administrator of the Animal and Plant Health Inspection Service to enforce its State laws and regulations to control CEM and to require inspection, treatment, and testing of horses, as required by Federal regulations, to further ensure the horses' freedom from CEM. This action relieves

unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

**DATES:** This rule will be effective on November 27, 1995, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before October 27, 1995.

**ADDRESSES:** Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to Docket No. 95-064-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your submission refers to Docket No. 95-064-1. Submissions received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments and notices are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. David Vogt, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-8423.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The animal importation regulations (contained in 9 CFR part 92 and referred to below as the regulations), among other things, prohibit or restrict the importation of certain animals, including horses, into the United States to protect U.S. livestock from communicable diseases. Sections 92.301(c)(2), 92.304(a)(4)(ii), and 92.304(a)(7)(ii) allow certain horses to be imported into the United States from certain countries where contagious equine metritis (CEM) exists if specific requirements to prevent their introducing CEM into the United States are met.

Mares and stallions over 731 days old must be consigned to States that have been approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) as meeting conditions necessary to ensure that the mares and stallions are free of CEM. These conditions, which concern inspection, treatment, and testing of the mares and stallions, are contained in § 92.304(a)(5) of the regulations for stallions and in § 92.304(a)(8) for mares. Texas has agreed to abide by the State regulations concerning mares and stallions imported from countries where CEM

exists, and has entered into a written agreement with the Administrator, APHIS, to enforce its State laws and regulations that meet the requirements of § 92.304(a)(5) and § 92.304(a)(8) of the regulations, to control CEM.

This direct final rule will add Texas to the list of States approved to receive certain mares (§ 92.304(a)(7)(ii)) and stallions (§ 92.304(a)(4)(ii)) imported into the United States from countries affected with CEM.

#### **Dates**

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the Federal Register unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the Federal Register.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the Federal Register withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice to this effect in the Federal Register, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We anticipate that fewer than 20 mares and stallions over 731 days old will be imported into the State of Texas annually from countries where CEM exists. Approximately 200-300 mares and stallions over 731 days old from countries where CEM exists were imported into approved States in fiscal